

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

RICHARD JAMES JOHNSON, #1005689 §

VS. §

CIVIL ACTION NO. 6:12cv603

PLRA 3 STRIKE PROVISION §

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the complaint should be dismissed pursuant to the “three strikes” provisions of 28 U.S.C. § 1915(g). The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit. It is specifically noted that the Plaintiff is challenging the constitutionality of § 1915(g), but the Fifth Circuit considered and rejected such challenges in *Carson v. Johnson*, 112 F.3d 818 (5th Cir. 1997). As such, the lawsuit and objections are frivolous. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #5) is **ADOPTED**. It is further

ORDERED that the above-styled and numbered civil rights lawsuit is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further

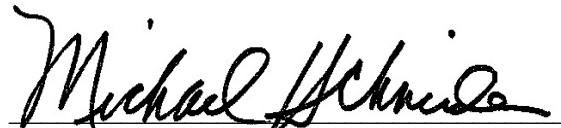
ORDERED that the Plaintiff's motion to proceed *in forma pauperis* (docket entry #2) is **DENIED**. It is further

ORDERED that the Plaintiff may resume the lawsuit if he pays the entire filing fee of \$350 within thirty days from the entry of this order. It is finally

ORDERED that all motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 24th day of September, 2012.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE